

1. The original offense
 2. Sentence and termination date
 3. Conduct while on parole
 4. A detailed account of the reason(s) for the violation, dates of the violation and rules violated to be included with the affidavit and warrant.
- f. Once a Parole Board member has signed the Affidavit and Warrant, an original Affidavit and Warrant and the Violation Summary will be submitted to the Parole Board.
- g. Faxed Warrants: When circumstances require expediency, the following procedure is to be utilized.
1. After completing steps 1-3, the PPO shall contact an available Board member by telephone to explain the situation and set up the fax transfer.
 2. The PPO will fax a confidential cover sheet, the warrant and supporting summary to the Board member.
 3. The PPO will arrange for the original Warrant and supporting material to be forwarded to the board member for signature.
 4. The original warrant shall contain the same signature dates as that of the faxed warrant.
 5. The returned fax copy of the signed warrant may serve as a valid arrest document, for entry into NCIC or as any other original warrant might be used.
 6. Upon return of the original signed warrant, hard copies shall be distributed as follows:
 - a. Central Office if NCIC entry is requested
 - b. Detention facility
 - c. Parole Board with remaining copies to be kept in the file.
- h. In cases where the parolee is incarcerated, a copy of the Affidavit and Warrant will be filed at the place of incarceration. If the parolee is still at large, a copy of the Warrant will be forwarded to the arresting authority once the parolee is apprehended, if requested.
- i. In situations where the PPO wants to notify the Parole Board of non-compliance that does not include a request for a parole warrant, the officer shall submit a parole summary with a request for a review hearing to the Executive Assistant.
2. Arrest of Parole Violators:
- a. In those cases where a warrant is in effect for a parolee, the sheriff, a police officer, or a PPO may serve the warrant and make the arrest, taking the parolee to the nearest house of correction or prison. The Parole Warrant will be filed at the facility.
 - b. In cases where a warrantless arrest is deemed necessary, please refer to PPD 5.03.
 - c. The parolee must receive a written copy of the violation of parole. The parolee must be given written notice of a preliminary hearing at or as soon as possible after the arrest. The preliminary hearing, if requested, must be held within 72 hours, excluding weekends or holidays. Continuances for the purpose of obtaining counsel, assembling witnesses etc. will generally be granted by the hearings officer. Continuances must be requested in writing.
 - d. The parolee is advised of their rights by reviewing and having them sign the Notice of Preliminary Hearing (Attachment 3). If the parolee waives the right to preliminary hearing, they must sign the waiver portion of the Preliminary Hearing Notice form. One copy is provided to the parolee.

For information on preliminary hearings, please refer to PPD 5.03

3. Revocation Hearing Procedure:
- a. Upon notification of the parole revocation hearing by the Executive Assistant to the Parole Board, the PPO is responsible for notifying any witnesses essential to the State's case of the date, time and location of the hearing to ensure their presence.
 - b. The PPO shall be prepared to present necessary information and documents to support their violation.
 - c. Witnesses' names are to be provided to the Parole Board's Executive Assistant.

Those witnesses who need to be compelled to appear can be subpoenaed by contacting the Parole Board's Executive Assistant.

- d. In an uncontested Violation Hearing the PPO will offer testimony in support of their violation and be prepared to present a recommendation.
- e. In the case of contested violations, the PPO must present evidence that will substantiate the allegation(s) set forth in the violation report.
- f. PPOS should be prepared to respond to questions or inquiries raised by the Parole Board, the parolee or legal counsel.
- g. PPOS should be aware that parole revocation hearings tend to be more informal than most courtroom proceedings. Nevertheless, they should be prepared to present their case in an well-organized and professional manner.
- h. In the event parole is revoked, the case file is to be returned in its entirety to the Parole Board's Executive Assistant.

4. Halfway House Placement

- a. Once a PPO has identified a parolee for placement at a halfway house in lieu of revocation, the Chief PPO (CPPO) will review the case.
- b. The PPO will contact the Unit Manager/designee to verify bed space and acceptance. The Unit Manager will confirm bed space availability with the Community Corrections' Program Assistant. When confirmed the Unit Manager will approve placement and notify the PPO.
- c. The PPO will transport the parolee to the designated location and bring the active case file, or at a minimum, the PSI, NCIC record, Mittimus/parole violation and update sex offender evaluation, if appropriate.
- d. Upon arrival, the PPO and halfway house staff will complete a placement agreement, medical intake screening form and a photograph. The PPO must fax the agreement to the Parole Board's Executive Assistant.
- e. When completed, the center's staff will notify the Reception and Diagnostic Unit (R & D) to relay the medical information and obtain a prison ID number. The center's staff will record the parolee's name and number on the change sheet and forward it to the Offender Records Office. The center's staff will also forward the photo with name, date and ID number on it by the next business day. The Unit Manager will ensure that verbal notification of the placement is made to the Offender Records Office as soon as possible.
- f. If bed space is not available, the PPO must determine if the parolee can be maintained in the community until space is available. If not, the parolee should be detained with a warrant or detention order.
- g. While at the halfway house, the parolee must abide by all the house rules and participate in all recommended and required programs.
- h. The supervising PPO should maintain biweekly contact with halfway house staff to monitor the parolee's progress. If the parolee is unsuccessfully discharged, halfway house staff will arrange for transportation to the prison when possible. The PPO or district office may be called for assistance in the event halfway house staff is unable to transport.

5. References:

In addition to this policy and procedure established by the Department of Corrections, Division of Field Services, each PPO should have a good working knowledge of the Administrative Rules of the Adult Parole Board, RSA 651-A:4, III (Attachment 4) and RSA 651-A:16 (Attachment 5).

B. **PROBATION VIOLATIONS**

1. Filing the violation:

- a. Discuss and review the violation with the CPPO.
- b. The PPO should complete a violation report (attachment 6) and file it with the court.
- c. If a request for an arrest warrant is made, the PPO shall submit a violation summary establishing probable cause for allegations and justifications for the compelling need for an immediate warrant (i.e. unreasonable risk to public or individual safety, or a strong likelihood of absconding or has absconded. (For a complete list of probation

rules and regulations please refer to PPD 5.06).

- d. When a capais/warrant is issued, information pertaining to the offender's status should be provided to law enforcement officials.

2. Violation Report Format

- a. When the decision has been made to file with the court, four copies of the violation should be completed. The original goes to the court, one copy each to the prosecutor, the defendant and the file.
- b. In preparing the violation, the following format will be used:
 - 1. The court docket number of the original order placing the person under probation supervision
 - 2. The defendant's full name; current or last known address and date of birth
 - 3. The name of the district or superior court in which the final disposition was made, the date of the final disposition and the presiding Judge's name.
 - 4. List offense(s) for which the defendant was convicted
 - 5. Copy of the original disposition order
 - 6. Specifically list the way(s) in which the defendant has failed to comply with the conditions of probation or court order identifying the applicable rule(s) by number along with the date of each occurrence.
 - 7. Date of the violation report
 - 8. The PPO may provide some pre-hearing recommendations to the court to include:
 - a. A hearing date set by court as soon as possible
 - b. the court to issue a warrant/capais or detention order for the arrest and detention of the offender with bail, if applicable in the amount of \$
 - c. Other (certain circumstances such as a warrantless arrest would require a recommendation to the court under this category)
 - 9. This section is to be filled out by the judge after the disposition of the violation.
 - 10. In addition to completing the violation report, the PPO shall complete a violation summary. This should be a narrative of the defendant's conduct that led to the violation of probation report for use by the prosecutor.

3. Arrest of Violators:

- a. If the probationer is arrested by a PPO, a probation violation must be forwarded to the court no later than the next business day. The PPO must follow the procedures outlined in PPD 5.03.
- b. In cases where a warrant/capais is in effect, the Sheriff, a police officer, or a PPO may serve the warrant and make the arrest.
- c. Upon arrest, the probationer must receive a written copy of the alleged probation violations. It must be relayed to the probationer that they will be arraigned by the court or a preliminary hearing/probable cause hearing will take place within 3 calendar days (72) hours, excluding weekends and holidays.
- d. The probationer shall be advised of their rights by reviewing the waiver-preliminary hearing form (attachment 3). If the probationer does not want a preliminary hearing, have the probationer sign the waiver - preliminary hearing form in duplicate, giving a copy to the probationer and one to the detention facility.

For information on preliminary hearings, please refer to PPD 5.03.

4. Courtroom Procedures

- a. Prior to the actual violation hearing, the PPO shall communicate with the prosecutor to review the case material.
- b. The PPO should be prepared to supply the prosecutor with the necessary names and documents, i.e. victims', witnesses' names, etc to support their affidavit and complaint. In areas where no prosecutors are available, the PPO should be prepared to present their own case. In the event that a PPO must prosecute, but is unable to do so, the CPPO shall prosecute the case.
- c. The PPO must be thoroughly familiar with the rules of the court, criminal codes and general courtroom decorum.

- d. At an uncontested violation hearing, the state will give an offer of proof in support of the violation and present a recommendation when requested. In those cases where there has been an agreed upon recommendation, the state will inform the court that such an agreement has been made and the nature of the agreement.
- e. At a contested violation hearing, the state must present evidence that will substantiate the allegation (s) set forth in the violation report.
- f. PPOS prosecuting their own violations should be prepared to examine and cross examine witnesses and be confronted by the defendant and the defendant's counsel.
- g. The PPO shall have a sentencing recommendation prepared for the court that should consider but not be limited to the following:
 - 1. use of alternative sanctions as appropriate
 - 2. disposition of monies owed through the Department of Corrections (i.e. fines, attorney fees, restitution)
 - 3. revocation of probation
 - 4. continuation of probation consistent with statute (with recommended length of time)
 - 5. whether credit is given for probation supervision during incarceration
 - 6. whether the sentence does or should result in additional court-ordered sanctions or enhanced/modified rules of probation (if treatment, no alcohol clause, etc.). The PPO should be prepared to justify these recommendations to the court if necessary.
- h. When a probationer is committed to a DOC facility for a probation violation, copies of the violation report will immediately be forwarded to Offend Records.

REFERENCES:

Standards for the Administration of Correctional Agencies
Second Edition. Standards

Standards for Adult Correctional Institutions
Fourth Edition Standards

Standards for Adult Probation and Parole Field Services
Third Edition Standards
**3-3142; 3-3156 thru 3-3160; 3-3162; 3-3165;
3-3172; 3-3219**

Standards for Adult Community Residential Services
Fourth Edition. Standards

Other:

BLAISDELL/pf

Attachments

Section 651-A:17

651-A:17 Parole Revocation. – Any parolee arrested under RSA 651-A:15-a shall be entitled to a hearing before the board within 45 days, in addition to any preliminary hearing which is required under RSA 504-A:6. The parolee shall have the right to appear and be heard at the revocation hearing. The board shall have power to subpoena witnesses, pay said witnesses such fees and expenses as allowed under RSA 516:16, and administer oaths in any proceeding or examination instituted before or conducted by it, and to compel, by subpoena duces tecum, the production of any accounts, books, contracts, records, documents, memoranda, papers or tangible objects of any kind. If the board, after a hearing, finds that the parolee has violated the conditions of parole, violated the law, or associated with criminal companions and in its judgment should be returned to the custody of the commissioner of corrections, the board shall revoke the parole. A prisoner whose parole is revoked shall be recommitted to the custody of the commissioner of corrections.

Source. 1983, 461:16. 1986, 156:6. 1987, 180:1, eff. Jan. 1, 1988. 1996, 93:10, eff. Jan. 1, 1997.

State of New Hampshire



ADULT PAROLE BOARD

DATE ARRESTED _____

AFFIDAVIT & WARRANT FOR THE ARREST OF PAROLEE

NOW COMES _____ OF THE NEW HAMPSHIRE
DEPARTMENT OF CORRECTIONS, DIVISION OF FIELD SERVICES, WHO COMPLAINS ON OATH THAT
_____, # _____ PAROLED ON THE
_____ DAY OF _____ 19 ___, AND WHOSE
PAROLE WILL NOT EXPIRE UNTIL THE _____ DAY OF _____
19 ___, HAS VIOLATED THE CONDITION OF PAROLE AS FOLLOWS:

JUSTICE OF THE PEACE_____
DATE_____
SIGNATURE_____
TITLE

WHEREFORE IN CONSIDERATION OF THE ABOVE COMPLAINT, THE UNDERSIGNED MEMBER OF THE NEW HAMPSHIRE BOARD OF PAROLE HEREBY ORDERS THE COMMISSIONER, ANY PROBATION/PAROLE OFFICER OR LAW ENFORCEMENT OFFICER AUTHORIZED TO SERVE CRIMINAL PROCESS TO ARREST SAID _____ IN ACCORDANCE WITH RSA 651-A:15a AND TAKE HIM/HER TO A COUNTY JAIL UNTIL A PRELIMINARY HEARING IS HELD BY THE DIVISION OF FIELD SERVICES. UPON A FINDING OF PROBABLE CAUSE AT THAT HEARING, SAID PAROLEE IS TO BE RETURNED TO THE NEW HAMPSHIRE STATE PRISON AND BROUGHT BEFORE SAID BOARD OF PAROLE FOR HEARING AND FURTHER DISPOSITION.

DATED THE _____ DAY OF _____ 19 ____

MEMBER, NEW HAMPSHIRE ADULT BOARD OF PAROLE

DATED THE _____ DAY OF _____ 19 ___, I, _____

_____ DELIVERED SAID _____ TO THE
NEW HAMPSHIRE STATE PRISON WITH THIS WARRANT.

THE STATE OF NEW HAMPSHIRE

PAROLE VIOLATION

TO THE WARDEN OF THE NEW HAMPSHIRE STATE PRISON

THIS IS TO CERTIFY THAT THE ADULT PAROLE BOARD BY AUTHORITY OF THE REVISED
STATUTES ANNOTATED CHAPTES 651 A:17 HAS REVOKED THE PAROLE OF

AND YOU ARE DIRECTED TO RECEIVE AND HOLD SAID
AS PROVIDED BY REVISED STATUTES ANNOTATED, CHAPTER 651 A:18.

DATED THE _____ DAY OF _____ 20

MEMBER , NEW HAMPSHIRE ADULT BOARD OF PAROLE

STATE OF NEW HAMPSHIRE
DEPARTMENT OF CORRECTIONS
DIVISION OF FIELD SERVICES

PRELIMINARY HEARING/WAIVER NOTICE
VIOLATION OF

NHSP# _____

DOCKET# _____

TO:

DATE _____

FROM:

You are hereby notified that you stand charged with the following violation(s) of the conditions of your _____:

You are entitled to a preliminary hearing under the terms of Morrissey v. Brewer/Gagnon v. Scarpelli (delete one) for the purpose of determining whether there is reason to believe the above allegations are factual. You have the following rights at said hearing:

1. To appear and speak on your own behalf.
2. To present witnesses, testimony and documentary evidence.
3. To request presence of adverse witnesses, subject to evaluation by the Hearings Officer (you will be advised in advance if the request is denied).
4. To ask questions of adverse witnesses relative to allegations of the violation.
5. To be represented by Counsel should you elect to retain one.

_____ I desire a Preliminary hearing. It will be held at _____ on _____ 20 _____ at _____ am/pm to determine if there is reasonable ground to believe that I violated the conditions of my _____ and that I am entitled to be personally present to speak in my behalf at said hearing; present witnesses and may request the presence of adverse witnesses for the purpose of confrontative and cross examination.

_____ Having been informed of my rights to a Preliminary Hearing as outlined above, I hereby waive these rights. If I am a parolee, I understand I will be transported to NH State Prison pending my appearance at a Revocation Hearing at the next regular/special meeting of the Parole Board. If I am a probationer, I understand I will be held at _____ pending an appearance before the _____ Court.

By my signature below, I acknowledge receipt of a copy of the violation stating forth the allegations against me.

Offender

Date

Witness

Date

Witness

Date

FS 25 PRELIM.

Section 651-A:4

651-A:4 Duties; Adult Parole Board. – The board shall:

- I. Be responsible for paroling prisoners from the state prison, subject to the applicable provisions of this chapter;
- II. Have legal custody of all persons released on parole until they receive their discharge or are recommitted to the prison;
- III. Adopt rules, pursuant to RSA 541-A, relative to:
 - (a) The parole process, including the conduct of parole hearings;
 - (b) Criteria used to evaluate prospective parolees;
 - (c) Conditions for the conduct of parolees; and
 - (d) Procedures for revocation of parole.

Source. 1983, 461:16, eff. July 1, 1983.

Section 651-A:18

651-A:18 Revocation Required. -

I. The board may revoke the parole of any parolee who:

- (a) Violates the conditions of his parole;
- (b) Violates the law; or
- (c) Associates with criminal companions.

II. The board shall revoke the parole of any parolee who:

- (a) Is convicted of a felony; or
- (b) Absconds from parole supervision for a period of 60 days or more.

III-V. [Repealed.]

Source. 1983, 461:16. 1986, 156:14, III. 1991, 342:2. 1993, 26:1, eff. April 8, 1993.

VIOLATION OF PROBATION REPORT CRIMINAL []

STATE VS.

The undersigned, an approved PPO in and for the State of New Hampshire, states that

(#2) _____ of (#3) _____ was sentenced or disposed of at
 the (#4) _____ on (#5) _____ for offense (#6)

_____ where the Honorable (#7) _____
 made the following order: (#8)

And that the defend and is alleged by the PPO to be in violation of the specific rules of probation as contained in the Rules of the Court of the district and superior courts of the state of New Hampshire, and any special rules of the court as follows: (#9)

(#10) _____
 (Date)

(#11) _____
 (Probation/Parole Officer)

It is recommended to the court that: (#12)

Disposition by the court: (#14)

 (Date)

(Justice)

Docket No.

VIOLATION SUMMARY

(Date)

(Probation/Parole Officer)

Approved: